

Department of Veterans Affairs

§ 44.50

Subpart H—Debarment 44.800 What are the causes for debarment?

- 44.805 What notice does the debarring official give me if I am proposed for debarment?
- 44.810 When does a debarment take effect?
- 44.815 How may I contest a proposed debarment?
- 44.820 How much time do I have to contest a proposed debarment?
- 44.825 What information must I provide to the debarring official if I contest a proposed debarment?
- 44.830 Under what conditions do I get an additional opportunity to challenge the facts on which the proposed debarment is based?
- 44.835 Are debarment proceedings formal?
- 44.840 How is fact-finding conducted?
- 44.845 What does the debarring official consider in deciding whether to debar me?
- 44.850 What is the standard of proof in a debarment action?
- 44.855 Who has the burden of proof in a debarment action?
- 44.860 What factors may influence the debarring official's decision?
- 44.865 How long may my debarment last?
- 44.870 When do I know if the debarring official debars me?
- 44.875 May I ask the debarring official to reconsider a decision to debar me?
- 44.880 What factors may influence the debarring official during reconsideration?
- 44.885 May the debarring official extend a debarment?

Subpart I—Definitions

- 44.900 Adequate evidence.
- 44.905 Affiliate.
- 44.910 Agency.
- 44.915 Agent or representative.
- 44.920 Civil judgment.
- 44.925 Conviction.
- 44.930 Debarment.
- 44.935 Debarring official.
- 44.940 Disqualified.
- 44.945 Excluded or exclusion.
- 44.950 Excluded Parties List System.
- 44.955 Indictment.
- 44.960 Ineligible or ineligibility.
- 44.965 Legal proceedings.
- 44.970 Nonprocurement transaction.
- 44.975 Notice.
- 44.980 Participant.
- 44.985 Person.
- 44.990 Preponderance of the evidence.
- 44.995 Principal.
- 44.1000 Respondent.
- 44.1005 State.
- 44.1010 Suspending official.
- 44.1015 Suspension.
- 44.1020 Voluntary exclusion or voluntarily excluded.

Subpart J [Reserved]

APPENDIX TO PART 44—COVERED TRANSACTIONS

AUTHORITY: 38 U.S.C. 501 and 38 U.S.C. 3703(c); Sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p.799); E.O. 12549 (3 CFR 1986 comp., p.189) E.O. 12689 (3 CFR 1989 Comp., p. 235.)

SOURCE: 68 FR 66544, 66618, 66619, Nov. 26, 2003, unless otherwise noted.

§ 44.25 How is this part organized?

(a) This part is subdivided into ten subparts. Each subpart contains information related to a broad topic or specific audience with special responsibilities, as shown in the following table:

In subpart . . .	You will find provisions related to . . .
A	general information about this rule.
B	the types of Department of Veterans Affairs transactions that are covered by the Governmentwide nonprocurement suspension and debarment system.
C	the responsibilities of persons who participate in covered transactions.
D	the responsibilities of Department of Veterans Affairs officials who are authorized to enter into covered transactions.
E	the responsibilities of Federal agencies for the <i>Excluded Parties List System</i> (Disseminated by the General Services Administration).
F	the general principles governing suspension, debarment, voluntary exclusion and settlement.
G	suspension actions.
H	debarment actions.
I	definitions of terms used in this part.
J	[Reserved]

(b) The following table shows which subparts may be of special interest to you, depending on who you are:

If you are . . .	See subpart(s) . . .
(1) a participant or principal in a nonprocurement transaction.	A, B, C, and I.
(2) a respondent in a suspension action.	A, B, F, G and I.
(3) a respondent in a debarment action.	A, B, F, H and I.
(4) a suspending official	A, B, D, E, F, G and I.
(5) a debarring official	A, B, D, E, F, H and I.
(6) a (n) Department of Veterans Affairs official authorized to enter into a covered transaction.	A, B, D, E and I.
(7) Reserved	J.

§ 44.50 How is this part written?

(a) This part uses a “plain language” format to make it easier for the general public and business community to

§ 44.75

use. The section headings and text, often in the form of questions and answers, must be read together.

(b) Pronouns used within this part, such as “I” and “you,” change from subpart to subpart depending on the audience being addressed. The pronoun “we” always is the Department of Veterans Affairs.

(c) The “Covered Transactions” diagram in the appendix to this part shows the levels or “tiers” at which the Department of Veterans Affairs enforces an exclusion under this part.

§ 44.75 Do terms in this part have special meanings?

This part uses terms throughout the text that have special meaning. Those terms are defined in Subpart I of this part. For example, three important terms are—

(a) *Exclusion or excluded*, which refers only to discretionary actions taken by a suspending or debarring official under this part or the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4);

(b) *Disqualification or disqualified*, which refers to prohibitions under specific statutes, executive orders (other than Executive Order 12549 and Executive Order 12689), or other authorities. Disqualifications frequently are not subject to the discretion of an agency official, may have a different scope than exclusions, or have special conditions that apply to the disqualification; and

(c) *Ineligibility or ineligible*, which generally refers to a person who is either excluded or disqualified.

Subpart A—General

§ 44.100 What does this part do?

This part adopts a governmentwide system of debarment and suspension for Department of Veterans Affairs nonprocurement activities. It also provides for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulation, and provides for the consolidated listing of all persons who are excluded, or disqualified by statute, executive order, or other legal authority. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and

38 CFR Ch. I (7–1–05 Edition)

Suspension” (3 CFR 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Public Law 103–355, 108 Stat. 3327).

§ 44.105 Does this part apply to me?

Portions of this part (see table at § 44.25(b)) apply to you if you are a(n)—

(a) Person who has been, is, or may reasonably be expected to be, a participant or principal in a covered transaction;

(b) Respondent (a person against whom the Department of Veterans Affairs has initiated a debarment or suspension action);

(c) Department of Veterans Affairs debarring or suspending official; or

(d) Department of Veterans Affairs official who is authorized to enter into covered transactions with non-Federal parties.

§ 44.110 What is the purpose of the nonprocurement debarment and suspension system?

(a) To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons.

(b) A Federal agency uses the nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible.

(c) An exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment.

§ 44.115 How does an exclusion restrict a person’s involvement in covered transactions?

With the exceptions stated in §§ 44.120, 44.315, and 44.420, a person who is excluded by the Department of Veterans Affairs or any other Federal agency may not:

(a) Be a participant in a(n) Department of Veterans Affairs transaction that is a covered transaction under subpart B of this part;

(b) Be a participant in a transaction of any other Federal agency that is a